



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 17 2005

REPLY TO THE ATTENTION OF

AE-17J

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Erik Leikin, President
Elyria Recycling Company
800 Infirmary Road
Elyria, Ohio 44035

Re: Elyria Recycling Company
Administrative Consent Order

Dear Mr. Leikin:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case.

If you have any questions about the Order, please contact Ray Cullen at (312) 886-0538 or Deborah Carlson at (312) 353-6121.

Sincerely yours,

Linda H. Rosen for Linda Rosen

Linda H. Rosen, Chief
Air Enforcement and Compliance Assurance Section MI/WI

Enclosure

cc: Dennis Bush, APC Supervisor
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Elyria Recycling Company)	Administrative Order
Elyria, Ohio)	
)	EPA-5-05-113(a) OH-03
Proceeding Under)	
Section 113(a)(3) of)	
the Clean Air Act,)	
42 U.S.C. § 7413(a)(3))	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Elyria Recycling Company (Elyria) under Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances and industrial process refrigeration under Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2).

3. Under Section 608(a)(2) of the Act, the Administrator promulgated the Recycling and Emissions Reduction Provisions for the Protection of Stratospheric Ozone (Stratospheric Ozone Standards) at 40 C.F.R. Part 82, Subpart F (40 C.F.R. §§ 82.150 through 82.166, and Appendixes A through D).

4. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(f), require that persons who take the final step in the disposal process (including, but not limited to, scrap recyclers and landfill operators) of a small appliance, room air conditioner, motor vehicle air conditioner (MVAC), or MVAC-like appliance must either recover any remaining refrigerant from the appliance in accordance with Section 82.156(g) or (h), or verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the

appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with Section 82.156(g) or (h), as applicable. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered or a contract that refrigerant will be removed prior to delivery.

5. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.166(i), require that persons disposing of small appliances, MVACs, and MVAC-like appliances must maintain copies of signed statements obtained pursuant to Section 82.156(f)(2).

6. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.166(m), require that all records required to be maintained pursuant to Section 82.166 must be kept for a minimum of three years unless otherwise indicated. Entities that dispose of appliances must keep these records on-site.

7. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the Stratospheric Ozone Standards. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

8. Elyria owns and operates a scrap processing facility at 800 Infirmary Road, Eyria, Ohio.

9. Elyria disposes of "appliances" and "small appliances," as these terms are defined at 40 C.F.R. § 82.152, as part of its business operations. Therefore, Elyria is subject to the Stratospheric Ozone Standards at 40 C.F.R. Part 82, Subpart F.

10. Prior to January 2005, Elyria did not own or operate any equipment related to the recovery or recycle of refrigerants.

11. On September 28, 2004, U.S. EPA issued to Elyria a Finding of Violation (FOV) alleging that Elyria violated the Stratospheric Ozone Standards.

12. On October 21, 2004, representatives of Elyria and U.S. EPA discussed the September 28, 2004 FOV.

13. Elyria violated the Stratospheric Ozone Standards at 40 C.F.R. § 82.156(f) by failing to recover refrigerant from

appliances or verify that refrigerant has been removed from appliances before disposal.

14. Elyria violated the Stratospheric Ozone Standards at 40 C.F.R. § 82.166(i) by failing to maintain copies of signed complete verification statements.

15. Elyria violated the Stratospheric Ozone Standards at 40 C.F.R. § 82.166(m) by failing to maintain copies of signed verification statements on-site for a minimum of three years.

Compliance Program

16. Elyria shall comply with all applicable regulations in 40 C.F.R. Part 82, including, but not limited to, the disposal requirements set forth in Subpart F.

17. In January 2005, Elyria purchased an Envirotech Systems Model 160-60 for refrigerant removal purposes at its facility.

General Provisions

18. This Order does not affect Elyria's responsibility to comply with other local, state, and federal laws and regulations.

19. This Order does not restrict U.S. EPA's authority to enforce Section 608 of the Act, 42 U.S.C. § 7671g, or any other section of the Act.

20. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Sections 113 of the Act, 42 U.S.C. § 7413, for Elyria's violation of the Stratospheric Ozone regulations.

21. Failure to comply with this Order may subject Elyria to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19).

22. The terms of this Order are binding on Elyria, its assignees, and successors. Elyria must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Elyria has given the notice.


23. Elyria agrees to the terms of this Order.

24. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will

terminate three years from the effective date, provided that Elyria has complied with all terms of the Order throughout its duration.

6/3/01

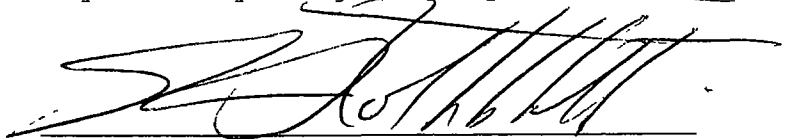
Date



Erik Leikin, President
Elyria Recycling Company

6/17/2005

Date



Stephen Rothblatt, Director
Air and Radiation Division
U.S. EPA, Region 5

Enclosure

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent the Administrative Order, EPA Order No. EPA-5-05-113(a)OH-03, by Certified Mail, Return Receipt Requested, to:

Erik Leikin, President
Elyria Recycling Company
800 Infirmary Road
Elyria, Ohio 44035

I also certify that I sent a copy of the Administrative Order, EPA Order No. EPA-5-05-113(a)OH-03, by First Class Mail to:

Dennis Bush, APC Supervisor
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

on the 20th day of June 2005.

Shanee Rucker
Shanee Rucker, Administrative
Program Assistant
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 032000061558 6097

standard bcc's: official file copy w/ attachment(s)

other bcc's:

Creation Date:	April 1, 2005
Filename:	C:\Documents and Settings\mac\Local Settings\Temporary Internet Files\Elyria.AO.wpd
Legend:	ARD:AECAB:AECAS(MI/WI): Cullen

U.S. ENVIRONMENTAL
PROTECTION AGENCY

JUN 07 2005

OFFICE OF REGIONAL
COUNSEL